

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS)	
COMMISSION'S TRIENNIAL REVIEW ORDER)	CASE NO.
REGARDING UNBUNDLING REQUIREMENTS)	2003-00379
FOR INDIVIDUAL NETWORK ELEMENTS)	

CONFIDENTIALITY PETITION
PURSUANT TO 807 KAR 5:001 SECTION 7

Petitioner, BellSouth Telecommunications, Inc. ("BellSouth"), hereby moves the Public Service Commission of Kentucky (the "Commission"), pursuant to KRS 61.878 and KAR 5:001, Section 7, to classify as confidential the following information filed today: Portions of the Direct Testimony of Debra J. Aron ("Aron"), specifically pages 31, 39 and 42, and Exhibits DJA-3 and DJA-4; Exhibit KLA-3 to Kenneth L. Ainsworth's ("Ainsworth") Direct Testimony; Exhibits JWS-4 and JWS-5 to James W. Stegeman's ("Stegeman") Direct Testimony; and Exhibits PAT-5 and PAT-7 to Pamela A. Tipton's ("Tipton") Direct Testimony.

As grounds for this motion, BellSouth states that the information is competitively significant and could be used to BellSouth's detriment by its competitors. Additionally, some of the information is confidential information that is the property of a third party.

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878(1)(c)1. To qualify for this commercial information exemption and, therefore, protect the information as confidential, a party must establish that disclosure of the commercial information would

permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001, Section 7. The Commission has taken the position that the statute and rules require the party to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

Pages 31, 39, and 42 of Aron's Direct Testimony and certain Exhibits to the Direct Testimony of certain witnesses contain confidential, commercial business information. The proprietary information in Aron's Direct Testimony on page 31 describes the information displayed in Exhibits DJA-3 and DJA-4 to Aron's Direct Testimony. These exhibits compare actual and expected losses of residential and small office/home office ("SOHO") customers, respectively, to CLECs. The proprietary information in Aron's Direct Testimony on pages 39 and 42 describes customer acquisition expenses derived from BellSouth's internal data. Exhibit KLA-3 to Ainsworth's Direct Testimony consists of Work Force Models that show BellSouth's projections of employee headcount in various departments. In Stegeman's Direct Testimony, Exhibits JWS-4 is the BellSouth Analysis of Competitive Entry (BACE) Source (Computer) code and JWS-5 is a proprietary CD-ROM containing a copy of the BACE model. A copy of the model is provided only on CD. This model contains confidential, business information that is considered proprietary to BellSouth. All of this information is commercially sensitive and contains confidential business information relative to the competitive interests of BellSouth. Disclosure of this data would impair the competitive business of and cause harm to BellSouth. BellSouth's competitors include alternate access providers, resellers and interexchange carriers. The Commission has approved interconnection and resale agreements between BellSouth

and numerous other telephone carriers. Disclosure of the information would give BellSouth's competitors an unfair business advantage over BellSouth and could be used to the detriment of BellSouth.

Exhibit PAT-5 to Tipton's Direct Testimony contains information relating to CLECs self-providing switching in markets where trigger is met. Exhibit PAT-7 to Tipton's Direct Testimony shows CLECs with actual deployment where trigger is not met. The Exhibits contain information relative to the business interests of the particular CLECs and would be of interest to other carriers providing local exchange service and could be used to the detriment of the CLECs.

The Commission also should grant confidential treatment to the information so designated for the following reasons:

- (1) The information for which BellSouth is requesting confidential treatment is not known outside of BellSouth;
- (2) The information is not disseminated within BellSouth and is known only by those of BellSouth's employees who have a legitimate business need to know and act upon the information;
- (3) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices; and
- (4) By granting BellSouth's petition, there would be no damage to any public interest.

For these reasons, the Commission should grant BellSouth's request for confidential treatment of the information set out herein.

Respectfully submitted,

for Cheryl R Winn

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